

ORIGINAL

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of
Implementation of Section 309(j)
of the Communications Act
Competitive Bidding

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PP Docket No. 93-253

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

MCI REPLY COMMENTS

MCI TELECOMMUNICATIONS CORPORATION
Donald J. Elardo
Larry A. Blosser
1801 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 887-2727

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Summary

The vast majority of initial comments submitted in response to the Notice of Proposed Rulemaking (NPRM) recommend that the Commission move forward quickly with auctions for broadband PCS. There is substantial evidence that oral auctions, combined with sealed nationwide combinatorial bids, can readily be accomplished by the Commission in May of 1994 for the two 30 MHz bands. MCI believes that electronic auctions should be considered for bands C through G, but only if the auction process is not delayed because of these new procedures.

Following careful consideration of the comments of other parties, MCI supports the following modifications to the auction procedures recommended in its initial comments:

- 1) MTA bidding should be conducted in clusters from East Coast to West Coast (rather than from smallest to largest MTA as previously proposed), with the sequence of MTAs as set forth in Appendix A;
- 2) minimum bid increments at oral MTA auctions should be established at 2% of the current high bid or \$1 million, whichever is less; and
- 3) NYNEX's proposal, to allow national combinatorial bids to be specified as X% above the sum of the MTA bids, subject to a maximum dollar amount, should be adopted.

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MCI REPLY COMMENTS

MCI Telecommunications Corporation (MCI), by its attorneys, hereby submits its reply comments in the above-captioned proceeding. As MCI demonstrated in its initial comments in this proceeding, the Commission should adopt auction rules for broadband PCS spectrum that maximize consumer welfare, rather than maximize auction revenues.

I. Rapid Implementation of PCS Auctions Will
Provide Substantial Public Interest Benefits

As discussed in MCI's Comments, the Commission faces several tradeoffs in implementing PCS spectrum auctions.^{1/} Auction rules that promote competition should be given priority over other choices. It is also essential that the benefits of PCS auctions be realized as soon as possible.

PCS services have the potential to bring substantial competition to existing cellular radio markets and may even provide the basis for the serious introduction of competition to at least a portion of the local exchange monopoly. Delay in offering these services could be very costly to the public. For

^{1/} MCI Comments at 1-2; See also Exhibit 1 to MCI's Comments at 1-6.

example, AT&T commissioned a study that found that the "...delay in licensing cellular telecommunications cost the U.S. economy more than \$86 billion."^{2/}

Time Warner and other parties^{3/} agree with MCI that the auctions should take place in the Spring of 1994 as contemplated in the authorizing legislation. Simple and administratively feasible procedures will allow the auction to take place as soon as possible.

Given the importance of bringing the benefits of PCS services to the public as rapidly as possible, proposals by incumbent carriers that could result in substantial delay must be rejected. MCI is adamantly opposed to proposals by AT&T and McCaw^{4/} to auction narrowband PCS blocks first and then experiment with other services before auctioning broadband PCS. First, neither the 900 MHz narrowband licenses nor (contrary to the claims of CTIA) the 10 MHz blocks are large enough to allow efficient competition for existing cellular or local exchange services. Although the Commission contemplates allowing holders of the 900 MHz narrowband licenses and holders of 10 MHz blocks to consolidate spectrum to achieve efficiencies, this process

^{2/} See Jeffrey H. Rohlf, Charles L. Jackson and Tracey E. Kelley, "Estimate of the Loss to the United States Caused by the FCC's Delay in Licensing Cellular Telecommunications," November 8, 1991 (Revised), p. 1.

^{3/} Time Warner at 2, APC at 1 n. 2, Comcast at 3.

^{4/} AT&T at 9-11, McCaw at 15; see also NTIA at 19-21.

could be time-consuming and involve substantial transaction costs.

Second, there is no valid reason for withholding the potentially most valuable pieces of spectrum from the market. The benefits of competition would be denied consumers and auction revenues would be denied to taxpayers. The only parties that would benefit from this delay are the existing cellular carriers, including the AT&T/McCaw. As noted in recent Wall Street Article, AT&T plans to market its long distance services in conjunction with McCaw in 1994.^{5/} Delaying new entrants will obviously facilitate AT&T's strategy of locking-in customers before competition has a chance to gain a foothold.

II. Cellular Eligibility Restrictions Should Be Reinforced, Not Weakened.

In the Second Report and Order in the PCS proceeding, the Commission adopted a rule designed to limit cellular carriers' eligibility for PCS spectrum in areas where they hold substantial interests in cellular spectrum. In adopting the 10 percent territorial overlap and 20 percent attribution threshold, the Commission sought to strike a reasonable balance between past cellular license policies that favored settlements and the

^{5/} See John J. Keller, "AT&T to End Sales of 'i Plan' Phone program," November 10, 1993, p. A5. See also, AT&T Chairman Robert E. Allen's November 16, 1993 Statement before the Senate Antitrust Subcommittee, at 16: "[T]he fact that AT&T will be able to "bundle" cellular service with long distance service...is not only unobjectionable; it is pro-competitive."

current policy designed to promote entry by new providers and ensure a competitive wireless market.^{6/}

As discussed in MCI's comments, there are several additional steps the Commission can take to promote competition. It is essential that the Commission provide for increased diversity in the nationwide wireless industry, which will promote competition and innovation.^{7/} Therefore, dominant cellular carriers should be excluded from bidding on one of the two 30 MHz wideband allocations.

Taking the opposite approach in their comments, several of the dominant cellular carriers express dissatisfaction with the Commission's cellular eligibility restriction, and recommend that the restriction be modified or eliminated. As described above and in MCI's Comments, broadband PCS is a potential competitor to cellular service and to local exchange services. It would disserve the public interest to permit the incumbent to either delay PCS licensing or to dominate this new spectrum to the same degree that they already dominate cellular spectrum.^{8/}

^{6/} Second Report and Order ¶ 109.

^{7/} MCI Comments at 4-6 and Exhibit 1.

^{8/} Should Bell Atlantic (at 5-9) or any other entity which controls a substantial portion of the nation's cellular spectrum seek reconsideration of the Commission's cellular eligibility restriction, MCI will vigorously oppose such efforts. Likewise, MCI will oppose any petition to be filed by Sprint (at 3 n. 4) or others seeking relaxation of the cellular eligibility restriction through a change in the permitted population overlap from ten percent to twenty percent or more.

If cellular firms were awarded PCS licenses, they might not use those licenses to offer services directly competitive with cellular, even though an independent operator would be incented to do so. See Severin Borenstein, "On the Efficiency of Competitive Markets for Operating Licenses," Quarterly Journal of Economics, May 1988, pp. 357-385:

...a competitive market allocation of operating licenses, whether attained through auctioning, selling, or allowing resale of the rights, does not, in general, assure their efficient use. (p. 357)

...a license holding firm will not necessarily enter the market in which it could generate the maximum social benefits. (p. 358)

The Commission must factor the structure of the post-auction mobile communications market into its public interest calculations. Excluding the largest cellular carriers from bidding on at least one of the 30 MHz blocks would, as MCI has demonstrated, foster the entry of new competitors into a market dominated by a handful of firms today.

Several of the ten largest cellular carriers urge the Commission to permit cellular carriers or their affiliates to participate in auctions, contingent upon divestiture of their disqualifying interests within some period (e.g. six months) after auction.^{9/} MCI opposes contingent bidding by cellular carriers. Contingent bidding is inconsistent with the Commission's pre-bid certification proposal, which includes an applicant certification that the applicant "is qualified pursuant

^{9/} See, e.g., Ameritech at 2; Bell Atlantic at 5-9; NYNEX at 15; Sprint at 7.

to...service-specific qualification rules...for the particular service."^{10/} If the Commission were to admit bidders on the basis of certifications that the applicant "will at some future date be qualified," it would become enmeshed in an administrative review process that would be both needlessly complex and litigation-prone, thereby delaying PCS licensing.

An issue which is closely related to contingent bidding is the question of whether a cellular transaction "in progress" should impact eligibility of the buyer or seller. Such transactions need to be carefully scrutinized to determine their impact on competition. MCI agrees with Southwestern Bell^{11/} that both AT&T and McCaw should be treated as owners of McCaw's cellular properties for purposes of the attribution rules and should be precluded from participating in any fashion in any nationwide aggregated bidding. Pacific Bell and Nevada Bell (PacBell) assert that they should be allowed to bid for PCS licenses in territory as long as the spin-off of PacTel Cellular is completed by the time final auction payments are due.^{12/} If, as proposed by numerous commenters, installment payment privileges are liberally granted, the deadline for "final auction payments" may not occur until several years after the auction, during which time a contingent bidder could hold both cellular spectrum and PCS spectrum in the same market. Cellular licensees

^{10/} NPRM at ¶ 98; See also ¶ 101 and n. 92.

^{11/} Southwestern Bell at 28-29.

^{12/} PacBell at 14-17.

should be required to be fully qualified to hold any license for which they bid at the time initial applications are filed, and contingent or conditional bids in general should be disallowed.^{13/}

III. Auction Methods.

The Commission must consider the impact of alternative auction mechanisms on the ultimate structure of the markets in which PCS will compete. As Professors Harris and Katz note in the paper submitted with NYNEX's comments:

In terms of their impact on the public interest, the indirect effects of the auction process on the performance of the PCS market may be even more important than the direct effects in the auction market itself. By affecting who gets spectrum, the extent to which spectrum is aggregated across frequencies or geographic regions, and the economic terms of payment (e.g., royalties v. sunk payments), the auction institutions will significantly affect future competition among the winning bidders in the PCS market and the competition between PCS license holders and other firms in the telecommunications marketplace.

Harris and Katz Exhibit 1 to NYNEX comments at 4.

As noted in Section I above, simple and administratively feasible procedures should be adopted that will allow the broadband PCS auction to be held in the Spring of 1994. In this section, we discuss in greater detail the characteristics of auction methodologies that will foster competition.

^{13/} See, e.g., AT&T at 38:

AT&T concurs that bidders generally should not have the right to place conditions on their bids, either oral or sealed, provided that they may withdraw sealed bids without penalty until the moment of bid opening.

A. Oral Auctions.

There is widespread support for oral ascending bids.^{14/} However, oral bids will allow the existing incumbents in the wireless market to more easily act on their strategic interest in preventing a new industry player from acquiring significant amounts of spectrum. Robert G. Harris and Michael L. Katz make exactly this point on behalf of NYNEX:

While, as a general rule, more information is better, there is one area in which increased information may be harmful to the public interest. If the bidders know one another's identities during the auction process, they may be better able to engage in speculative hold-up. With anonymity, it will be harder to target a firm for hold-up when its bidding and spectrum ownership patterns cannot be directly observed. Moreover, anonymity will limit the ability of firms to make preemptive bids designed more to harm specific competitors (by denying them access to valuable spectrum) than to allow the efficient and desirable provision of services.^{15/}

Sealed bids or some form of blind bidding will capture many of the benefits associated with oral auctions while preventing the existing carriers from misusing information about the identities of the firms they are bidding against. Electronic

^{14/} AT&T at 11-12, Bell Atlantic at 19-21, BellSouth at 4-5, Breen at 1, CCI at 1, CTIA at 2 and 7-12, Comcast at 3, Council of 100 at 2, GTE at 6, McCaw at 1, NABOB at 6-7, NABER at 6, Nextel at 4, Pagenet at 7-16, Phase One at 2, Rochester at 2, Rural Cellular Assn. at 5-6, Rural Cellular Corp. at 2, SW Bell at 15-20, Telocator at 3, U.S. Intelco at 8-9.

^{15/} "A Public Interest Assessment of Spectrum Auctions for Wireless Telecommunications Services" at 9 (footnote omitted) (filed with November 10, 1993 Comments of NYNEX).

auctions, as proposed by several parties,^{16/} may also allow the identity of bidders to be masked. However, electronic auctions raise potential implementation issues.^{17/}

There are fewer broadband than narrowband blocks and the number of firms likely to bid on them is also lower. Therefore, it should be possible to conduct an efficient oral auction for the A and B blocks.^{18/} An experiment with electronic auctions might be useful in the remaining BTA-based spectrum blocks, where the number of licenses to be issued and the number of potential bidders will be larger.

A way must be found to allow bidder anonymity under the oral auctions for the A and B blocks.^{19/} One possibility is to require the identity of bidding parties to be masked, and to allow bidding parties to be represented at auction by multiple agents. Another possibility is to provide telephone hook-ups for

^{16/} Arch at 11-12, Comcast at 3, JMP Telecom Systems at 3, NTIA at 8-19, NYNEX at 14, PacBell at iii and 11, Rural Cellular Assn. at 5-6.

^{17/} NPRM at ¶ 56, APC at 1 n. 2.

^{18/} MCI supports the recommendation of Telephone and Data Systems, Inc. (TDS) at 24 to establish a minimum bid increment as a means of expediting oral auctions. MCI recommends that the minimum bid increment be established at the lesser of two percent of the preceding high bid or one million dollars.

^{19/} GTE asserts that "an open and informative bidding process calls for disclosure of the bidder's agents. Accordingly, GTE recommends that the Commission require potential bidders to publicly reveal the identity of their ownership and their bidding agents in the applications and that such information be a matter of public record prior to the bidding process." GTE at 11-12. GTE's preoccupation with unmasked bidding agents clearly reflects its desire to impede, in any way possible, competitive entry into its existing cellular markets.

the bidders through a conference bridge that allows the Commission or its auction agent to receive the bids individually and announce the results to all participants.

B. Combinatorial bidding.

Several large, mid-sized and small companies filed comments in support of national combinatorial bids.^{20/} Among the most vociferous opponents of national combinatorial bidding are those who have a vested interest in one (or more) of the "national" cellular brands: AT&T,^{21/} Cellular One^{22/} or MobiLink.^{23/}

AT&T attempts to argue that national licensees would ignore some regions in favor of building out other regions more rapidly.^{24/} These claims are unfounded. First, the successful bidder in a nationwide combinatorial auction would be unlikely to allow spectrum to lie fallow. Delaying implementation of service is not profit maximizing behavior (unless the owner has market

^{20/} See NPRM, ¶¶ 47, 57-62, 120. The following parties stated that they either supported or did not oppose combinatorial bids at the national level: Alliance of Rural Area... at 11, AWCC at 39, Bell Atlantic at 11-12 and 14, Calcell at 16, CSI at 10, CTIA at 2-4 and 9 n. 19 and 14-23, Comtech at 2, JMP Telecom at 4, Liberty Cellular at 2, Myers at 9-10, NTCA at 13-14, Nextel at 10, NYNEX at 14, PTC at 2-3, Pagemart at 19, PMN at 10, Point at 2, Small Business PCS Assn. at 5, Telephone Assn. of Michigan at 11, Telmarc at 3, Venus at 5.

^{21/} AT&T at 4-8; McCaw at 7-14.

^{22/} SW Bell at 22-24, 26-28.

^{23/} GTE at 6-9.

^{24/} AT&T at 5.

power).^{25/} Second, to the extent that the Commission believes that winners of national combinatorial bidding will unreasonably delay implementation of service to some regions, it can impose sanctions (including reasonable build-out requirements) to prevent this. Finally, the consortium approach originally advocated by MCI would allow the necessary resources to be provided. Winning bidders would have an incentive to adopt this approach if necessary to take full economic advantage of the spectrum they own.

Pacific Bell and Nevada Bell claim that nationwide licensing: (1) is inconsistent with the enabling legislation;^{26/} (2) was rejected by the Commission in the PCS Order;^{27/} and (3) is contrary to the public interest.^{28/} They are wrong on all counts. First, Section 309(j)(6) of the Act expressly states:

Nothing in this subsection, or in the use of competitive bidding, shall --

^{25/} AT&T's request for a pioneer's preference for 6 GHz PCS (File No. PP-43, submitted May 4, 1992) sought exclusive co-primary usage of 25.6 MHz of microwave "separation band" spectrum for its "nationwide" PCS system. AT&T's "nationwide" system would serve only the top 70 MSAs. AT&T disclaimed any interest in serving the rest of the nation. It could, perhaps, be served by other 6 GHz PCS providers, but only AT&T would have "exclusive co-primary" usage of the separation bands. Others would be required to petition the Commission for a reallocation of spectrum, after AT&T received its nationwide license.

^{26/} PacBell at 8-9, citing Section 309(j)(3)(A): "the development and rapid deployment of new technologies, products, and services...."

^{27/} PacBell at 8.

^{28/} PacBell at 8: "The bias in favor of national bidders is inappropriate."

... (F) be construed to prohibit the Commission from issuing nationwide, regional, or local licenses or permits;....

Second, the Commission clearly did not "reject" the national licensing approach on September 23 of this year.^{29/} In the NPRM in this docket -- adopted the same day as the PCS Report and Order -- the Commission, with the support and encouragement of Congressional leadership, proposed national combinatorial bidding, explaining that combinatorial bidding could permit those whose vision of PCS encompassed a nationwide offering to accomplish that goal without nationwide license allocations.^{30/}

Southwestern Bell's opposition to national combinatorial bidding appears to be based in large measure on the tremendous marketing advantages that a national licensee would enjoy. See, e.g., SW Bell Comments at 26-28 and n. 17: "The marketing advantage...of being able to claim...a nationwide scope would be virtually insurmountable." This claim is entitled to no credence whatsoever. The lack of actual nationwide scope does not appear to present an "insurmountable" obstacle to the marketing of Southwestern Bell's cellular subsidiary in Washington/Baltimore, which advertises:

^{29/} If the Commission had (in the PCS Report and Order) "rejected" nationwide licensing, then would it, on the same day (in the Auction NPRM) propose rules which are "biased systematically in favor of [national] combinatorial bidders"? (PacBell at 5). The answer ("Of course not") obviously eluded PacBell, but the Commission's rationale for its combinatorial bid proposal is clearly set forth in ¶¶ 57-62 of the NPRM.

^{30/} NPRM ¶ 57 and n. 37. See McCaw at 12.

The Cellular One Advantage...Owned and operated by Southwestern Bell Mobile Systems, the 2nd largest cellular carrier in the United States, serving 29 major metro markets in a nationwide cellular network.

Cellular One "Personal Rates" brochure and coverage map, reproduced as Exhibit 2 hereto [emphasis added].

Only a handful of commenters support complex mix-and-match combinatorial bidding schemes at the MTA level. Ameritech, for example, does not address national combinatorial bidding, but recommends that the Commission consider permitting sealed bids for aggregated licensing areas (e.g., a group of contiguous BTAs) covering less than all of the larger area of which they are a part (e.g., an MTA).^{31/} Such complex bidding schemes would be tremendously resource intensive if conducted through conventional bidding processes. Reliance on electronic bidding systems, which have not yet been fully developed or thoroughly tested, is clearly infeasible if the Commission is to meet its statutory deadlines for commencement of PCS licensing. For these reasons, a simple approach to combinatorial bidding (such as that described in MCI's Comments at 10-14, as modified herein) should be employed.

MCI supports NYNEX's proposal of allowing combinatorial bids to be placed at X% above the sum of MTA bids, subject to a self-imposed cap:

Parties submitting sealed combinatorial bids need not specify their bid in dollar and cents. These parties, if they so desire, should be permitted to specify that their bid shall be equal to the sum of all individual bids plus a

^{31/} Ameritech at 4-5. See also Nextel at 11, NTIA at 15.

stated percent, subject to limitations placed by bidders on their expenditures.

NYNEX at 14.

The NYNEX approach for combinatorial bidding is superior to a standard sealed bid auction because it will help ensure that the Commission receives full value for the spectrum. One of the disadvantages of standard sealed bid auctions is that bidders may bid less than their full valuation in a strategic attempt to pay less for the spectrum.^{32/} The NYNEX approach provides an incentive for combinatorial bidders to place their full valuation of the spectrum in the reservation price they bid. Each bidder will be willing to do this knowing that if other bidders place significantly lower valuations on the combined spectrum, the winning bidder will be able to pay less than its full reservation price. Thus, this bidding mechanism provides the benefits of a Vickrey second-bid sealed auction.^{33/} One of the Commission's criticisms of Vickrey auctions is that there may be a significant disparity between the first and second bids resulting in reduced auction revenue for the government.^{34/} This is not a problem under the NYNEX approach because the oral bids for the individual

^{32/} NPRM ¶ 41.

^{33/} See NPRM ¶ 44, NYNEX Exhibit 1 (Harris and Katz) at 18.

^{34/} NPRM ¶ 45.

piece parts will place a floor on the amount the Commission receives for the spectrum.^{35/}

C. Sequence of Auctions.

In the NPRM the Commission tentatively proposed to conduct broadband PCS auctions commencing with the largest (30 MHz) spectrum blocks and largest markets, and proceeding to smaller spectrum blocks and smaller markets.^{36/} As noted above, the principal advocates of licensing smaller spectrum blocks first are incumbents who already have spectrum^{37/} and the advocates of electronic bidding trials.^{38/} The recommendations that smaller and less viable 10 MHz blocks be auctioned first should be rejected, in order to permit the rapid introduction of broadband PCS as a competing wireless service.

Although most parties prefer auctions from largest to smallest markets,^{39/} several companies including NYNEX suggest

^{35/} MCI opposes the opening of sealed MTA bids prior to the open oral MTA auctions. CCI at 6, CTIA at 4 and 14-15, Dial Page at 7, SW Bell at 24-25 and 36. Opening the sealed bids before the oral MTA auctions would give the MTA bidders an unwarranted bidding advantage. MCI and others that submit sealed combination bids gain no added competitive advantage over the bidders in an MTA auction -- they simply know, as single MTA bidders do, what they are willing to bid.

^{36/} NPRM at ¶¶ 120, 125.

^{37/} AT&T at 9-11, McCaw at 15, Nextel at 8.

^{38/} See, e.g., NTIA at 19 and Attachment 2.

^{39/} Alliance of Rural... at 12-13, Alliance Telecom at 3, APC at 5, AT&T at 9-11, CCI at 9, Comcast at 10, CTP at 5, CTIA at 3-4, GTE at 5-6, McCaw at 2 and 14-15, Telocator at 4, Vega Group at 4.

alternatives.^{40/} The recommended alternatives include geographic clustering^{41/} and East-to-West or West-to-East sequences.^{42/}

NYNEX's experts, Professors Harris and Katz, observe:

[T]he order in which spectrum in different geographic areas is auctioned off can matter for both efficiency and fairness. For example, suppose that the Commission chose to auction spectrum for the New York City area first due to its population size, with other areas following. As auctions progress, participants will learn more about what is going on. Hence participation in earlier rounds may be riskier.

NYNEX, Exhibit 1 at 17. The question, then, is whether New York City should be auctioned first, if early rounds of bidding are indeed riskier because bidders lack information? MCI believes the answer is "Of course not." MCI recommends the adoption of an bidding sequence for MTAs which combines geographic clustering and East-to-West progression, contained in Exhibit A hereto. The recommended sequence would avoid the problems inherent in starting with a very large market (as identified by NYNEX, above), facilitate geographic clustering, and generally follow an East-to-West progression.

^{40/} NYNEX at 17. See also AIDE at 15-16, APC at 5, AWCC at 39, Bell Atlantic at 11-13, BellSouth at 11-14, Minority PCS Coalition at 7, Nextel at 8, Rural Cellular Assn. at 7-8, Rural Cellular Corp. at 2, U.S. Intelco at 9-10.

^{41/} Breen at 2.

^{42/} SW Bell at 35.

IV. Other Issues.

A. Unjust Enrichment and Trafficking Restrictions.

In the NPRM, at paras. 82-89, the Commission sought comment on measures to prevent unjust enrichment. In general, MCI agrees with the Commission and the majority of commenters that "unjust enrichment" and "trafficking" are relevant only to authorizations acquired at auction for a price below market value.^{43/} No "antitrafficking" rules or transfer restrictions should be applied to authorizations acquired at auction for full market value.

Conversely, all authorizations which are acquired on a preferential basis by a "designated entity" should be subject to reasonable antitrafficking rules. A number of commenters have suggested minimum license holding periods ranging from one year^{44/} to a full ten-year license term.^{45/} A three-year holding period for licenses issued to designated entities is reasonable and capable of being firmly enforced.^{46/} MCI opposes Southwestern Bell's proposal to allow designated entities to transfer authorizations to other entities after winning spectrum at auction before building anything.^{47/} Free transferability of

^{43/} AT&T at 27, Bell Atlantic at 17-18, GTE at 15-16, McCaw at 22, PTC at 8-9, TWT at 4-5.

^{44/} Alliance of Rural... at 5-6, Palmer at 7-8.

^{45/} See, e.g., AT&T at 28.

^{46/} See MCI Comments at 20, AWCC at 34, NAMTEC at 23, Windsong at 6, Wisconsin Wireless at 2.

^{47/} SW Bell at 41-42.

unbuilt authorizations would encourage speculative bidding by designated entities and facilitate evasion and abuse of the cellular eligibility restrictions.

Bell Atlantic proposes that the cellular eligibility restriction be "waived" so that otherwise ineligible cellular or cellular-controlled entities would be "allowed to hold and operate [in-region] PCS licenses to the extent that they do so as non-controlling members of PCS consortia in which designated entities hold significant equity interests."^{48/} Bell Atlantic's choice of words -- "hold and operate" a license as "non-controlling members" -- is indicative of its proposal's potential as a means of evasion and abuse of the Commission's cellular eligibility restriction.^{49/} MCI urges the Commission to make no exception to its cellular eligibility restriction for in-market partnering with designated entities.

B. Collusion.

The vast majority of commenters responding to the Commission's request for comments on whether specific anti-collusion rules are needed^{50/} responded in the negative, stating that existing antitrust laws and bid-rigging statutes provide adequate guidance.^{51/}

^{48/} Bell Atlantic at 16-17.

^{49/} See NPRM at ¶ 110.

^{50/} NPRM ¶¶ 93-94.

^{51/} MCI at 15-17, Alliance of Rural... at 7, Arch at 17-18, AT&T at 39-40, AWCC at 37, BellSouth at 14-17, Breen at 5, CTIA at 8-
(continued...)

Some commenters urge the Commission to impose stringent anti-collusion rules.^{52/} Most of these commenters have not described, with any specificity, the otherwise lawful activities which the Commission might prohibit without deterring activities (joint bidding ventures and PCS consortia) which the Commission wishes to encourage. Some parties are seeking the adoption of broad anti-collusion rules as a means of inhibiting -- if not preventing -- the formation of consortia capable of submitting national combinatorial bids.^{53/}

NYNEX recommends that the Commission work with the Department of Justice to prepare and issue guidelines for firms interested in forming bidding consortia and strategic alliances. MCI does not oppose this request, provided that the preparation and issuance of such guidelines does not materially delay the implementation of competitive bidding.

C. Application Requirements.

A number of parties submitted sound recommendations that the Commission streamline the pre-auction filing process insofar as practicable, and require that only the winning bidder submit a

^{51/} (...continued)

9, PacBell at 29-30, Pagenet at 28, SW Bell at 32, Sprint at 19, Telocator at 5, TWT at 4-5.

^{52/} See, e.g., CPUC at 6, CTP at 7, JMP Telecom at 5, Myers at 7-8, TDS at 18-19, Vega Group at 9.

^{53/} For example, TDS (at 19) urges the Commission to require winning bidders to certify "that such bidder has not directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free and open competitive bidding."

long-form applications following the close of bidding.^{54/} These recommendations are generally consistent with the Commission's desire that the auction process be simple and easy to administer.^{55/}

MCI agrees with GTE^{56/} that whatever form the pre-auction submissions take, full disclosure of bidder ownership should be required. The Commission may wish to expand the scope of the ownership disclosure requirements for closely-held corporations and trusts.^{57/} MCI agrees that it is appropriate for partnership applicants to identify all partners. A comparable ownership disclosure rule for closely-held corporations would require the names and addresses of all shareholders (in addition to the name and address of a responsible officer or director as proposed in the NPRM). If the applicant is a trust, the names and addresses of the beneficiaries (as well as that of the trustee) should be disclosed.

^{54/} AFVO at 12, Alliance of Rural... at 6-7, BellSouth at 35-39, CSI at 15, CTIA at 28 n. 68, GCI at 14, Liberty Cellular at 7, Mercury at 2, Myers at 9-10, NABOB at 7-8, PTC at 7, PacTel at 5-6, Santarelli et al. at 2, TDS at 19, U.S. Intelco at 21, Wisconsin Wireless at 2.

^{55/} NPRM at ¶ 18.

^{56/} GTE at 11-12; see also McCaw at 18, Vega Group at 4.

^{57/} NPRM n. 86.

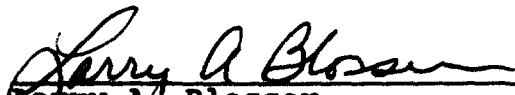
V. Conclusion.

WHEREFORE, MCI requests that the Commission take its comments into account in the development of rules for the use of competitive bidding in the licensing process.

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION

By:


Larry A. Blosser
Donald J. Elardo
1801 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 887-2727

Its Attorneys

Dated: November 30, 1993

Exhibit 1

Bid Order	Rank	MTA	Population
1	24	Richmond	3,927,400
2	10	Washington	7,995,600
3	9	Philadelphia	9,075,500
4	1	New York	26,692,100
5	8	Boston	9,548,900
6	6	Charlotte	9,969,100
7	11	Atlanta	7,181,400
8	36	Jacksonville	2,345,700
9	13	Tampa	5,665,000
10	14	Miami	5,363,400
11	28	Birmingham	3,283,200
12	16	New Orleans	4,966,700
13	27	Memphis	3,493,400
14	42	Nashville	1,809,700
15	43	Knoxville	1,733,700
16	26	Louisville	3,579,700
17	18	Cincinnati	4,737,300
18	38	Columbus	2,179,100
19	21	Pittsburgh	4,070,500
20	17	Cleveland	4,946,100
21	34	Buffalo	2,776,400
22	4	Chicago	12,177,800
23	5	Detroit	10,095,700
24	31	Indianapolis	3,042,400
25	19	St. Louis	4,716,700
26	39	Little Rock	2,080,800
27	12	Minneapolis	6,073,300
28	20	Milwaukee	4,591,900
29	32	Des Moines	3,004,000
30	33	Kansas City	2,959,100
31	44	Omaha	1,666,700
32	46	Wichita	1,125,000
33	7	Dallas	9,937,500
34	15	Houston	5,272,400
35	30	San Antonio	3,088,600
36	40	Oklahoma City	1,877,500
37	47	Tulsa	1,104,100
38	22	Denver	3,953,700
39	25	Phoenix	3,663,000
40	35	Salt Lake City	2,635,900
41	37	El Paso	2,190,900
42	41	Spokane	1,875,200
43	2	Los Angeles	19,974,500
44	3	San Francisco	12,381,000
45	29	Portland	3,144,800
46	23	Seattle	3,948,500
47	48	Alaska	570,200
48	45	Honolulu	1,138,200
49		Puerto Rico	
50		Guam	
51		American Samoa	